

III. REMARKS

The appealed claims have been amended to better conform to U.S. practice.

Claims 1-10, 13, 15 and 16 are not unpatentable over Persson in view of Reed.

Claim 1 recites "... forming a control function at least partly on the basis of a quantity which at least partly represents the control history experienced by at least one bearer...". Claim 16 has similar limitations. These are not disclosed or suggested by the combination of Persson and Reed.

Reed discloses in column 3, lines 8-12 techniques to minimize the time a user has a high bad frame ratio, and the summary part suggests a threshold driven method to be used for monitoring in such a case (column 3, lines 15-39). Reed appears to recognize the environment having a static character or having a fading experiencing character as based on averaged and original being compared.

Persson discloses in column 3, lines 18 to 23, as follows:

"It is therefore an exemplary objective of the present invention to adjust the power levels associated with a plurality of mobile stations, in response to the changing needs of **THE plurality** of mobile stations, **without** resorting to the above described **iterative** procedure".

This also occurs in the description and in claim 1 in column 10, lines 43-50, *i.e.*, that the mobile stations form sets and the sets are adjusted as sets.

Thus, there is a gap between the adjusting philosophies of Reed and Persson. Reed monitors threshold crossing events of individual base stations. It is a kind of iteration. Persson avoids iterative procedure, and also operates with sets of mobile stations. One suggests operating with a device, but the other with a set of devices.

Therefore, it is improper to combine these two references since they are trying to achieve contradictory objects, which results in technological difficulties. (See *Examination Guidelines for Determining Obviousness*, V. Consideration of Applicant's Rebuttal Evidence, 72 Fed. Reg. 57,526, 57,534, for a discussion of such difficulties as a valid argument against combining references).

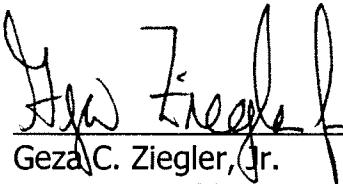
Further, even if the references are somehow combined, the result is not the claimed invention since the recited limitation of the control history, which is not disclosed in either reference, would still be missing.

Thus the rejection of the above claims should be withdrawn.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, reopening prosecution, remand to the Examiner, favorable reconsideration and allowance are respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



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12 FEB 2008
Date

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